

REMARKS

A. Status of the Application

- Claims 18-34 and 69-119 are pending in the application, of which claims 18, 69, 86 and 103 are independent claims. These claims are subject to a Restriction Requirement.

B. Restriction Requirement

The Office Action Restriction Requirement dated December 17, 2008 (“Restriction Requirement”) restricts the claims among four groups:

- I. Claims 18-34, drawn to a method of processing bids, classified in class 705, subclass 37;
- II. Claims 69-85, drawn to an apparatus comprising a memory and processor, classified in class 703, subclass 21.
- III. Claims 68-102, drawn to an article of manufacture, classified in class 710, subclass 74; and
- IV. Claims 103-119, drawn to a method of processing offer requests, classified in class 705, subclass 38.

Applicants provisionally elect for prosecution **Group II**, corresponding to **claims 69-85**.

However, Applicants respectfully traverse the Restriction Requirement. The Examiner asserts that the four groups of claims are distinct and unrelated because they are not disclosed as capable of use together and they have different designed, modes of operation, and effects. Restriction Requirement, p. 3. However, at least the claims of

Groups I, II, and III are capable of use together. In fact, independent claims 69 and 86 (Groups II and III) specifically incorporate the language of independent claim 18 (Group I). Claim 69 recites an apparatus, and claim 86 recites an article of manufacturing, comprising instructions that “direct the processor to perform the method of claim 18.” Accordingly, the independent claims are inherently related: the apparatus of claim 69 is capable of performing the method of claim 18, and the article of manufacturing of claim 86 is capable of causing an apparatus (such as the apparatus of claim 69) to perform the method of claim 18. Independent claim 103 (Group IV) is also related to claim 18 (Group I) in that it recites similar features that parallel the recitations of claim 18, but with “bid request” exchanged for “offer request” and vice versa.

Furthermore, even if the claims of these Groups are technically deemed distinct, the lack of an additional search burden compels the Examiner to examine all the claims together, or at least to examine the claims of Groups I, II, and III together. Under MPEP § 803:

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (A) The inventions must be independent . . . or distinct as claimed . . . ; and
- (B) There would be a serious burden on the examiner if restriction is not required [citations omitted].

Because claims 69 (Group II) and 86 (Group III) actually incorporate the language of claim 18 (Group I) by reference, Applicants respectfully submit that it would not be a serious burden on the Examiner to examine the claims of Groups II and I together; or Groups III and I together; or even Groups I, II, and III together. Applicants submit that the same is true for Groups I and IV given their similarities and parallel structure. Under MPEP § 803, “[i]f the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.”

C. Conclusion

In view of the foregoing remarks, Applicants respectfully submit that the application is in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience. It is not believed that extensions of time or fees for net addition of claims are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to Deposit Account No. 50-3938. Please note that the Attorney Docket No. for this application is now 05-6242.

Applicants' undersigned attorney can be reached at the address shown below. All telephone calls should be directed to the undersigned at (212) 294-8055.

Date: January 21, 2009
(Note: Jan. 17-18 fall on a
weekend, and Jan. 19-20 were D.C.
holidays.)

Respectfully submitted,

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